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In re Application of :
Trung Van Nguyen :
Application No. 09/552,419 :
Filed: April 19, 2000 :
Attorney Docket No. NGTV.70965 :

DECISION ON PETITION

This is a decision on the Request Pursuant To 37 C.F.R. § 1.8(b) For Withdrawal Of Notice Of Abandonment, received in the United States Patent and Trademark Office (USPTO) on August 28, 2002, which is being treated as a Petition To Withdraw Holding Of Abandonment for the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to timely pay the issue fee as required in the Notice of Allowance and Issue Fee Due, mailed March 22, 2002. The Notice set a three (3) month statutory period for reply. A Notice of Abandonment was mailed August 12, 2002.

Petitioner states that the Notice of Abandonment was improperly issued because the issue fee was forwarded to the Office on May 31, 2002. In support of this assertion, the petitioner has submitted a copy of the Issue Fee Transmittal, a check sent with the Fee Transmittal, and a returned postcard, which acknowledges receipt of the Issue Fee Transmittal and the check on June 7, 2002, by the USPTO. The Issue Fee Transmittal acknowledged as having been timely received in the PTO, is not of record in the application file and cannot be located. However, MPEP 503 states the following:

A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon on the date stamped thereon by the PTO.

In view of the above, the holding of abandonment for failure to timely pay the issue fee is hereby withdrawn. Accordingly, the issue fee will be accepted as having been timely received June 7, 2002.

Results of an investigation of the applicant's cancelled check, found that the PTO improperly processed the check for the issue fee for application no. 09/522,419. The PTO's Office of Finance database indicates on October 25, 2002 the issue fee payment was removed from the incorrect application and properly processed for application no. 09/552,419.

The application will be forwarded to the Publishing Division to be processed into a patent.

Telephone inquires relating to this matter may be directed to the undersigned in the Office of Patent Publication at 703-305-8380.



Thomas Hawkins
Paralegal Specialist
Office of the Director
Office of Patent Publication